

ORDINANCE NO. 12-47

ORDINANCE GRANTING A
CONDITIONAL USE PERMIT (CUP) TO
ALLOW A MIDDLE THROUGH SENIOR
HIGH (6 - 12 GRADE) CHARTER
SCHOOL WITH A MAXIMUM TOTAL
ENROLLMENT OF 1,300 STUDENTS
PURSUANT TO HIALEAH CODE §98-
181(2)i ON PROPERTY ZONED M-1
(INDUSTRIAL DISTRICT). **PROPERTY
LOCATED AT 651 WEST 20 STREET,
HIALEAH, FLORIDA.** REPEALING
ALL ORDINANCES OR PARTS OF
ORDINANCES IN CONFLICT
HEREWITH; PROVIDING PENALTIES
FOR VIOLATION HEREOF; PROVIDING
FOR A SEVERABILITY CLAUSE; AND
PROVIDING FOR AN EFFECTIVE
DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 27, 2012,
recommended approval of this ordinance; and

WHEREAS, the Petitioner proffered a declaration of restrictive covenants, to
which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY
COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to
this ordinance are hereby adopted and incorporated by reference as if fully set forth
herein.

Section 2: The below-described property is hereby granted a conditional use
permit (CUP) to allow a middle through senior high (6 - 12 grade) charter school with a
maximum total enrollment of 1,300 students pursuant to Hialeah Code §98-181(2)i. on
property zoned M-1 (Industrial District). The property is located at 651 West 20 Street,
Hialeah, Miami-Dade County, Florida and legally described as follows:

THE WEST 338 FEET OF THE EAST 548 FEET OF TRACT 1,
IN BLOCK 2, OF BINGS RED ROAD TERMINALS,
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN
PLAT BOOK 65, PAGE 13, OF THE PUBLIC RECORDS OF
MIAMI-DADE COUNTY, FLORIDA

AND

LOT 1 AND LOT 2, BLOCK 15, OF SEMINOLA CITY
SECTION NO. 1, ACCORDING TO THE PLAT THEREOF, AS
RECORDED IN PLAT BOOK 9, PAGE 75, OF THE PUBLIC
RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 28th day of August, 2012.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia Martinez
Council President

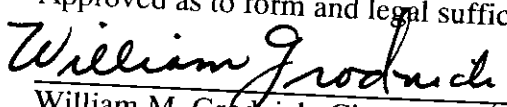
Attest:

Approved on this 30 day of Aug., 2012.


David Concepcion, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Greenick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".



CFN 2013RD429721
DR Bk 28654 Pgs 3287 - 3297; (11pgs)
RECORDED 05/30/2013 15:26:52
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
Juan J. Mayol, Jr., Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

(Space Reserved for Clerk of Court)

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions ("Declaration") is made as of the date of its execution by ANFS, LLC, a Florida limited liability company ("Owner"), in favor of the City of Hialeah, Florida, a municipal corporation of the State of Florida (the "City").

WITNESSETH

WHEREAS, the undersigned is the fee simple owner (the "Owner") of that certain property located at 651 W. 20th Street ("Property") in the City, which Property is identified by the Miami-Dade County Property Appraiser Property Folio Number 04-3013-034-0120, which is more particularly described as follows:

THE WEST 338' OF THE EAST 548' OF TRACT 1, BLOCK 2 of BINGS RED ROAD TERMINAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 13 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA;

WHEREAS, the Owner filed an application with the City's Planning and Zoning Division for a conditional use permit (CUP) for the operation of a public charter school on the Property (the "Application");

NOW, THEREFORE, in order to assure the City that the Owner will abide by the representations made by the Owner in support of its Application, the Owner freely, voluntarily and without duress, makes the following declaration of restrictions covering and running with the Property which shall govern the Property for as long as the Property is operated as a public charter school:

1. The Property shall be developed, and the public charter school use shall be established and maintained, substantially in compliance with the plans submitted by the Owner as part of the Application entitled "iMater: A Media Arts & Entertainment Public Charter School," as prepared by Civica, LLC, dated May 30, 2012, last revised on June 26, 2012, (the "Plans"), consisting of ten (10) sheets, including the survey and cover sheet (the "Plans"). Prior to the issuance by the City of a certificate of occupancy for the public charter school, the Owner shall construct all of the on-site improvements depicted on the Plans, unless an extension is granted by the Director of the City's Planning and Zoning Division for good cause shown.

2. Prior to the issuance by the City of a certificate of occupancy for the public charter school, the Owner shall construct those improvements to W. 21st Street which are depicted on the Plans, unless an extension is granted by the Director of the City's Streets Department for good cause shown. The Owner shall submit plans for the improvements for review and approval by the City's Streets Department. The improvements will consist of pavement, drainage, signage, pavement markings and street lights, all as may be required by the City's Streets Department in accordance with the City's regulations.

3. The public charter school shall be limited to 1,300 students in grades 6th thru 12th. Notwithstanding anything in this paragraph to the contrary, the total enrollment will be phased in accordance with the following schedule:

<i>School Year</i>	<i>Maximum Enrollment</i>
2013-2014	900
2014-2015	1,000
2015-2016	1,100
2016-2017	1,200

2017-2018	1,300
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3. The public charter school use shall be established and maintained in accordance with that certain Traffic Impact Study and Accumulation Assessment prepared by Richard Garcia & Associates, Inc. for the Application, dated May 31, 2012, as revised on July 17, 2012 (the "Traffic Study"). The Traffic Study contains the proposed traffic circulation route for passenger vehicles and school buses and the location of traffic monitoring personnel to be employed by the school during arrival and dismissal periods. Prior to the beginning of the second full school year and until the sixth full school year, the Owner shall submit to the Planning and Zoning Division an updated traffic study (the "Updated Traffic Study") to assess traffic circulation, parking, the bus/shuttle operation and other site specific traffic considerations. The Updated Traffic Study shall provide the same level of information provided in the Traffic Study but shall be based on findings taken during a period that would be representative of the previous year's operations. The City, in its sole discretion, will determine whether the updated traffic study is sufficient to assess the impact of the school's operations on traffic in the area, including the levels of service and intersection wait time. If the impact on traffic, as reported in the Updated Traffic Study, exceeds the findings in the Traffic Study, the City may require the Owner to implement measures to mitigate the additional impact, such as increased shuttling to and from the Okeechobee Metrorail Station and expanded arrival and dismissal intervals between shifts.

4. The Owner shall cause a minimum of twenty percent (20%) of the students enrolled at the public charter school to be transported by shuttle to and from the school and the Okeechobee Metrorail Station (the "Shuttle"). Prior to the issuance by the City of a certificate of

occupancy for the public charter school, the Owner shall provide to the Planning and Zoning Division written evidence that it has received permission from the Miami-Dade County Transit Department to pick up and drop off students and employees at the Okeechobee Metrorail Station. In addition, to encourage the use of public transportation, the public charter school shall provide its employees a financial incentive to travel by bus or train to the Okeechobee Metrorail Station and then be transported to and from the public charter school by Shuttle. Incentives may include the payment of train/bus fare and off-street parking at the Okeechobee Metrorail Station.

5. Beginning in the 2017-2018 school year, the Owner shall maintain a minimum of three (3) staggered start times and four (4) staggered dismissal times for 1,300 students in grades 6 - 12 as follows:

<i>Grades</i>	<i>Number of Students</i>	<i>Commencement of Arrival</i>
11-12	390	7:30 AM
9-10	390	8:00 AM
6-8	520	8:30 AM

<i>Grades</i>	<i>Number of Students</i>	<i>Commencement of Dismissal</i>
11-12	390	2:00 PM
9-10	390	2:30 PM
6-7	345	3:00 PM
8	175	3:15 PM

In recognition of the phased growth in the enrollment of the public charter school, prior to the commencement of each school year from 2013 to 2016, the Owner shall submit to the Planning and Zoning Division and the City of Hialeah Chief of Police or Sector Commander the

proposed arrival and dismissal schedule for the current year. To supplement the school's traffic personnel, beginning with the 2013 school year and for each school year thereafter, the Owner may be required to hire Hialeah Police Department off-duty police officers to direct and control traffic in and out of the school during arrival and dismissal. The number of off-duty police officers, the hours required, the length of time throughout the year, and their specific task and location shall be determined in consultation with the Hialeah Police Department and may be coordinated with other schools on W. 20th Street. However, for the 2013 school year, the Owner agrees that the following positions will be staffed by off-duty police officers during arrival and dismissal: the school driveway on W. 20th Street, and the intersection of W. 20th Street and W. 8th Avenue for the entire school year, and the intersection of W. 21st Street and W. 8th Avenue for the first month of the school year. In lieu of off-duty police officers, but with the consent of the Hialeah Police Department, the Owner may utilize the services of certified traffic monitors to direct traffic in and out of the school. Notwithstanding the staggered/start dismissal times, the Owner shall take appropriate measures to ensure, to the extent possible, passenger vehicles are not stacked in through lanes or parked in non-designated parking areas on private property or in the public rights-of-way. No student (whether or not accompanied by an adult) or parent shall be allowed to walk or ride a bicycle to and from school. Furthermore, the Owner shall provide before and after school care in order to minimize the vehicular trips or extended stacking time for families with students in two or more start/dismissal periods.

6. Prior to the issuance by the City of a certificate of occupancy for the school, the Owner shall submit to the City a copy of the school's parent/student contract (the "Contract"). At a minimum, the Contract will contain the following conditions and rules of conduct:

A. As a condition for enrollment at the school, certain students may be required to be transported to and from school by Shuttle from the Okeechobee Metrorail Station.

B. Under no circumstances will students (whether accompanied by an adult or not) be allowed to walk or ride a bicycle (whether motorized or not) to and from school.

C. Subject to the availability of parking spaces, only seniors who are properly licensed by the state, who are designated safe drivers in their driver's licenses, are properly insured as required by the State and who maintain a grade point average of at least 3.5 will be allowed to drive to and from school. Subject to compliance with the foregoing eligibility criteria, parking spaces will be assigned on a first come, first serve basis.

D. As a condition to enrollment at the school, the parents/guardian and students drivers must acknowledge that they must not obstruct through lanes or park in non-designated parking areas on private property or in the public right-of-way.

E. As a condition to continued enrollment at the school, parents or guardians and student drivers will acknowledge that the school may be subject to enforcement by the City for violation of these policies and that any such violation may result in disciplinary action against the student who is found to have violated these policies or whose parent/guardian violates these policies.

7. Waste pick-up and deliveries for the school shall take place outside of the arrival and dismissal times.

8. That the school gates shall be opened at least 30 minutes prior to the arrival and dismissal times.

9. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its heirs, successors and assigns until such time as the same is modified, amended or released and except as set forth above, may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, said modification, amendment or release is also approved by the Mayor of the City of Hialeah, or his successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in the Hialeah Charter.

10. As a means of enforcement for any violations of these restrictions, the Owner consents to the revocation of the business tax receipt and CUP. Thereafter, the premises shall only be used pursuant to the applicable zoning district regulations.

11. Where construction has occurred pursuant to a permit issued by the City and inspection made and approval of occupancy given by the City, the same shall cause a conclusive presumption that the improvements constructed comply with the restrictions in this Declaration.

[Execution page follows]

IN WITNESS WHEREOF, we have hereunto set our hands and seals in Miami-Dade

County, this 27 day of August, 2012.

Signed, sealed and delivered in the
presence of:

[Signature]
WITNESS
Printed Name: Martin Bravo

[Signature]
WITNESS
Printed Name: Karla Briceño

ANFS, LLC
a Florida limited liability company,
[Signature]
Anthony Cho, Manager

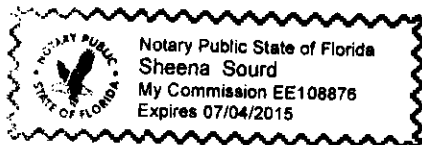
STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that, on this 27 day of August, 2012, before me, an officer duly authorized in the State of Florida and in the County of Miami-Dade, to take acknowledgments, personally appeared Anthony Cho, Manager of ANFS, LLC, a Florida limited liability company, to me known to be the person described herein and who executed the foregoing instrument and that he acknowledged before me, under oath, that he executed same.

WITNESS my hand and official seal this 27 day of August, 2012.

[Signature]
Notary Public, State of Florida

Sheena Sourd
(Name of Notary Public: Print, Stamp
or Type as Commissioned)



Personally known to me, or
Produced Identification:

personally known
Identification Produced:

☒ DID take an oath
☐ DID NOT take an oath